

Atty. Dkt. No. 023727-1701

REMARKS

The present invention relates to shock-resistant and environmentally sealed containers. Specifically, the present invention relates to a latch system for a container, wherein the latch system is configured to absorb relative movement between the first section and the second section of the container, thereby preventing the latches of the container from inadvertently opening. The latch system employs a deflectable pin and latch coupled to one section of the container, and a locking ridge coupled to a second section of the container. The deflectable pin is positioned such that when the latch including the deflectable pin is engaged, the latch system absorbs relative movement between the first and second sections of the container. See, for example, Figure 8. The latch system with the deflectable pin offers many advantages, such as for example, the ability for the container to remain secured even after severe impacts.

By the present communication claims 6-9, 12, 26 and 29-30 remain pending in this application. Claims 1-5, 10 and 25 have been cancelled. The present status of all claims in the application is provided in the Listing of Claims presented herein beginning on page 2 of this communication.

Rejection under 35 U.S.C. §102(b)**a) Rejection as Anticipated by Seitz (U.S. Pat. No. 3,709,538)**

The rejection of claims 6-9, 12, 26 and 29 under 35 U.S.C. §102(b), as allegedly being anticipated by Seitz et al. (U.S. Patent No. 3,709,538), is respectfully traversed.

In order to anticipate a claim, a single prior art reference must provide each and every element set forth in the claim. *In re Bond*, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990). *See also*, MPEP §2131.

Applicants' invention, as defined for example by claim 6, distinguishes over Seitz by *inter alia* requiring a deflectable member which is configured to absorb relative compression movement between the first and second section of the container. Applicants disagree with the

Atty. Dkt. No. 023727-1701

Examiner's suggestion that the Seitz bushing (23) is a deflectable member. The bushing(s) disclosed in the Seitz reference are merely endcaps that hold rod (21) in place and function as a pivot point for the L-shaped member (14). See col. 2, lines 55-57, wherein it states "the bushings... act to retain the L-shaped member in place on rod (21)." In contrast, the bushings of the present invention deflect, as shown in Figure 8, allowing latch pin 100 to shift in the cylindrical aperture of the latch, thereby keeping the latch securely engaged.

Furthermore, the Seitz reference describes the latch system as being made of a rigid material. See col. 3, lines 38-43. A rigid material will not deflect, as required by claim 6 of the present invention. In contrast, the bushing(s) in the present invention are defined as being compressible. See specification, p. 7, lines 20-21. There is simply no disclosure in Seitz that the bushings (23) are deflectable, or that they are made of a material capable of compressing or deflecting as required by the present claims.

In addition, claim 6 requires the limitation that the deflectable member absorb the relative movement between the first and second sections of the container. As described in the Seitz reference, the relative compression movement between the first and second section of the container is absorbed by spring (32), not by the bushing(s) (23) as suggested by the Examiner. See Fig. 2 and col. 2, lines 31-36. Therefore, because Seitz does not teach every element of the invention as claimed, rejection is improper. Reconsideration and withdrawal of the rejection is respectfully requested.

b) Rejection as Anticipated by Henne (U.S. Pat. No. 4,838,586) and Munoz (U.S. Patent No. 4,861,078)

The rejection of claims 6-9, 12, and 26 under 35 U.S.C. §102(b), as allegedly being anticipated by Henne (U.S. Patent No. 4,838,586) and Munoz (U.S. Patent No. 4,861,078) is respectfully traversed.

Atty. Dkt. No. 023727-1701

Applicants' invention, as defined for example by claim 6, distinguishes over Henne and Munoz (which each disclose essentially the same oven door latch system) by requiring a deflectable member configured to absorb relative compression movement between the first and second section of the container. The Examiner asserts that Henne and Munoz include a deflectable member (identified in the Office Action as bushing 66) configured to absorb relative compression movement of the lid which moves the latch (20) with respect to the oven body and the pin (30). Applicants submit that bushing (66) is nothing more than a plug to hold the pin (30). Furthermore, pin (30) and bushing (66) are not described or shown to be deflectable. Rather, Henne and Munoz describe the pin and bushing as slidably engaging slot (31) to allow the movement of the latch in closing the oven door. See Henne, Figs. 3 and 4, and col. 4, lines 7-8 and 18-25, wherein it states "latch arm 20 has an elongated slot 31 which receives therein a bushing 66 on pin 30.". Bushing (66), as described in the Henne and Munoz references, functions in a passive manner and is not a deflectable member. Thus, because Henne and Munoz do not teach every feature as required by the present invention, rejection is improper. Reconsideration and withdrawal of the rejection is respectfully requested.

c) Rejection as Anticipated by Kushman et al. (U.S. Patent No. 4,109,819)

The rejection of claims 6-9, 12, and 26 under 35 U.S.C. §102(b), as allegedly being anticipated by Kushman et al. (U.S. Patent No. 4,109,819), is respectfully traversed.

Applicants' invention, as defined for example by claim 6, distinguishes over Kushman et al. by requiring a deflectable member configured to absorb relative compression movement between the first and second section of the container. Kushman, on the other hand, discloses a quick-release vent structure for releasing a rapid pressure buildup within a vessel such as a storage bin. Applicants disagree with the Examiner's assertion that Kushman discloses a deflectable member (identified as bushing 41), as bushing 41 merely provides a rotational surface between latch member 34 and axle 39. See Fig. 7 and col. 4, lines 50-52. There is no description in Kushman to suggest that the bushing (41) is deflectable, or that it is configured to absorb relative compression movement.

Atty. Dkt. No. 023727-1701

Furthermore, the deflectable pin of the present invention absorbs relative movement between the first section and the second section of the container, thereby preventing the container from opening. In contrast, the latch member 34 in Kushman is specifically designed to release under high pressure. See col. 5, lines 19-46, and Figs. 4-6.

Accordingly, Kushman does not teach a latch system with a deflectable member, or a latch system configured to absorb the relative movement between the first and second sections of the container. Rejection is therefore improper. Reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) is respectfully requested.

Rejections under 35 U.S.C. §103(a)

a) Relevant Law

To establish a *prima facie* case of obviousness, three criteria must be met; there must be some motivation or suggestion, either in the cited publications or in knowledge available to one skilled in the art, to modify or combine the cited publications; there must be a reasonable expectation of success in combining the publications to achieve the claimed invention; and the publications must teach or suggest all of the claim limitations. *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2142. In analyzing obviousness, the Court of Appeals for the Federal Circuit has repeatedly cautioned that:

[t]he factual inquiry... must be based upon objective evidence of record.... [T]he best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.... [P]articular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed.

In re Sang-Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002) (internal citations omitted).

b) Rejection Over Seitz, Henne, Munoz and Kushman

Atty. Dkt. No. 023727-1701

The rejection of claims 29 and 30 under 35 U.S.C. §103(a), as allegedly being unpatentable over Seitz et al., Henne, Munoz and Kushman is respectfully traversed.

Applicants' invention, as defined, for example, by claim 6, distinguishes over Seitz, Henne, Munoz and Kushman in that the present invention requires the feature of a deflectable member configured to absorb the relative compression movement between the first and second section. As described above, each of the references individually fail to describe each of the limitations required by claim 6. The combination of the references similarly fails as there is teaching or suggestion of a deflectable member.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

In view of the above remarks, reconsideration and favorable action on all claims are respectfully requested. In the event any matters remain to be resolved in view of this communication, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application can be achieved.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Atty. Dkt. No. 023727-1701

Respectfully submitted,

Date

Aug. 1, 2005

FOLEY & LARDNER LLP

Customer Number: 30542

Telephone: (858) 847-6711

Facsimile: (858) 792-6773

By



Michael F. Hay

Registration No. 54,155

For Richard J. Warburg

Registration No. 32,327

Attorney for Applicant